



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION 5
AIR AND RADIATION DIVISION
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590**

REPLY TO THE ATTENTION OF:

MEMORANDUM

SUBJECT: Wisconsin Dept. of Natural Resources; Reporting Requirements for Emissions Data and Claims of Confidentiality

FROM: John Mooney
Director
Air and Radiation Division

TO: Christa O. Westerberg
Beauregard W. Patterson
Pines Bach LLP

Emissions data cannot be confidential as per past regulation and case history. See 42 USC 7414 (c), which explicitly says emissions data are not confidential. We've confirmed that Kohler Metals Complex has not been reporting emissions to the National Emissions Inventory (NEI). Under the Air Emissions Reporting Rule (AERR), States are required to annually or triennially report emissions of sources whose emissions are above the reporting thresholds described in 40 CFR 51.30 and that emissions data is public domain. The AERR does not provide an exclusion for these reporting requirements if a State grants a source business information confidentiality.

We've been in communications with Wisconsin Department of Natural Resources (WDNR) to resolve this issue. WDNR has acknowledged that its confidentiality rules under Wis. Admin. Code § NR 2.19. are in conflict with the requirements of the AERR. Moving forward, WDNR has agreed to submit emissions data to the NEI for sources, including those sources granted business information confidentiality. Contact Maria Hill at WDNR for more information.

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